

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TERRANCE JON IRBY,

Plaintiff,

v.

HAYNES et al.,

Defendants.

CASE NO. 3:15-CV-05628-RJB-JRC

REPORT AND RECOMMENDATION

NOTED FOR: JUNE 17, 2016

This case has been referred to United States Magistrate J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff failed to pay the filing fee of \$400.00 and the undersigned recommends that this matter be dismissed and all pending motions (Dkts. 52, 58, 60) be denied as moot.

On March 14, 2016, the undersigned filed a report and recommendation, recommending that plaintiff's *in forma pauperis* ("IFP") status be revoked because he has filed three or more civil actions or appeals that were dismissed as frivolous and for failure to state a claim; and because the complaint did not show that he is in imminent danger of serious injury. Dkt. 65. The Court adopted the report and recommendation and gave plaintiff until May 13, 2016 to pay the filing fee. Dkt. 69. The Court also advised plaintiff that failure to pay the filing fee would result in dismissal of the case. *Id.*

## DISCUSSION

The court may permit indigent litigants to proceed IFP upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed IFP. *Weller v. Dickson*, 314 F.2d 598 (9th Cir.1963), cert. denied, 375 U.S. 845 (1963).

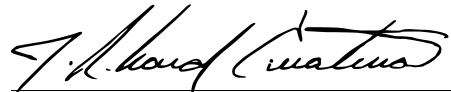
The Court denied plaintiff's application to proceed IFP and plaintiff was given an opportunity to pay the filing fee. To date, plaintiff has failed to pay the filing fee. Plaintiff has failed to respond to the Court's order in any way. See Dkt. Thus, the undersigned recommends that this case be dismissed.

## CONCLUSION

Based on the foregoing, the undersigned recommends that this matter be dismissed. The undersigned also recommends that all pending motions (Dkts. 52, 58, 60) be denied as moot.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P."), Plaintiff shall have fourteen (14) days from service of this Report and Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed set this matter for consideration on **June 17, 2016** noted in the caption.

Dated this 24th day of May, 2016.



J. Richard Creatura  
United States Magistrate Judge